

The complaint

Mr M complains that NewDay Ltd won't refund the money he lost to an investment scam.

What happened

Mr M explains that:

- He was contacted by Person A on his messaging app. who said he was a professional trader and his biography stated '*7-Figure Trader – Developer of the Best Forex Trading Bot*'.
- Person A didn't provide any website links, email addresses or company details but their messaging app user name included a company which provides an automated trading robot.
- Person A persuaded him to invest in Forex (Foreign Exchange) and CFD's (Contracts for Difference) using his automated forex robot.
- All communications from Person A continued to be on the messaging app.
- Person A instructed him to download legitimate Trading Platform M, which is linked to a regulated broker that provides online trading services called Company V.
- Person A advised him to make the following three payments totalling £11,600 after showing him profit screenshots:
 1. £5,000 on 1 June 2025 – this was from his Bank M account to Company V, paying on his card.
 2. £4,200 on 16 June 2025 – this was from his NewDay credit card account* to Company V.
 3. £2,400 on 29 June 2025 – again from his NewDay credit card account to Company V.

* Mr M used his NewDay credit card as Bank M has a crypto trading limit.
- The payments were spaced out as Person A said this would prevent payment blocks and ensure the funds reached the trading account.
- He wasn't provided with contracts, agreements, or terms and conditions.
- Person A said he would manage the trades using his "automated system" and that Mr M would see regular returns of 100–400%.
- He realised that he was being scammed when Person A blocked him on the messaging app and the money he invested had gone.
- He only managed to take screenshots of a few messages.

Mr M considers the above to be a clear and highly sophisticated scam as '*he was manipulated by a third-party posing as a professional trader into transferring money to Company V under false pretences*', so he contacted NewDay and Bank M to claim a refund.

NewDay rejected his claim. They said they couldn't see that they'd made any errors and with regards to protection under Section 75, this didn't apply as the transactions were a transfer of funds and not a purchase of goods or services.

Mr M referred his complaint to our service and, upon review, our investigator didn't think it was a scam and didn't think NewDay had treated him unfairly.

Mr M disagreed with our investigator's view and asked for an ombudsman review. Mr M's points included the following:

- Person A executed all trades without his control, so he was not the true authoriser of how his funds with Company V were used.
- He didn't have login access after depositing funds with Company V and couldn't monitor or intervene in trades.
- Person A's tactics mirror an investment scam pattern and are consistent with a clone scam.
- The transactions were large, unusual, and high-risk compared to his normal spending profile and he received no real-time intervention or fraud warning.
- Section 75 protection still applies.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In deciding what's fair and reasonable, I'm required to take into account relevant law and regulations; regulatory rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

The CRM Code and the APP Scam Reimbursement Rules, introduced by the Payment Systems Regulator in October 2024, unfortunately don't apply here as the payment Mr M made was by card to another account in his name and not to fraudster.

Regarding NewDay's obligation to help protect customers from financial harm from fraud and scams, these are where the funds are being lost to a fraud or scam. I appreciate Mr M is convinced he was the victim of a scam and although I genuinely empathise with his financial loss and the distress he experienced, when considering whether he was a victim of a scam, my key finding is that I'm not persuaded that he was. I say this because:

- Having seen correspondence and data from Company V, which is a financial firm regulated by the FCA, I'm satisfied that the payments weren't made to a cloned company.
- There is no evidence to show that his trading account with them was under the control of a scammer.
- There is conflicting information that indicates the Company V account was opened before Mr M was contacted by Person A and the contact was several months before the payment was made.
- There is no evidence his funds were misappropriated.
- Although Mr M hasn't been able to submit his full dialogue to evidence Person A's tactics, which do sound suspicious, and I don't disbelieve he was persuaded to invest and to use Person A's company robot, Company V's evidence indicates the loss was due to a lack of margin and trading fluctuations and it appears likely that the robot was of

insufficient quality when dealing with CFDs and Spread Bets that Company V:

- Explain are '*complex instruments and come with a high risk of losing money rapidly due to leverage. 68.4% of retail investor accounts lose money when trading CFDs and Spread Bets with this provider*'.
- Warn customers that they '*should consider whether you understand how CFDs and Spread Bets work and whether you can afford to take the high risk of losing your money*'.

Also, the messages I've seen from Person A are consistent with legitimate automated trading systems often referred to as '*expert advisors*' that use trading platforms and high-risk tools.

After considering the above and all the information on file, on balance, I can't safely say this meets the high legal threshold and burden of proof for fraud. I appreciate Mr M disagrees, but instead this appears to be a case of a failed investment rather than a scam.

So, NewDay's obligations to protect their customers from financial harm from fraud and scams doesn't apply to these two payments and their primary obligation was to carry out Mr M's payment instruction without delay.

I recognise that the first payment, for £4,200, was a high amount for Mr M to spend but the payment was going to another account he held with a regulated firm, which would've meant it had a high bar for intervention as it would provide additional warnings (as detailed above) on investments. So, I wouldn't have expected NewDay to have intervened and, as I think it more likely than not that this was an investment that went wrong, even if they did intervene they:

- Would've advised Mr M to invest in an FCA regulated firm which I'm satisfied he was doing.
- Wouldn't have any specific obligation to protect their customers from potentially risky investment decisions involving the use of different trading platforms and robots.
- Wouldn't consider the suitability or unsuitability of a third-party investment product.

Regarding Section 75 of The Consumer Credit Act and consumer protection, as the credit card payments were used to fund the trading account he opened and not to purchase specific goods or services, it unfortunately doesn't meet the qualifying criteria.

Finally, regarding NewDay applying interest and charges during our service's investigation and Mr M requesting that these be frozen and reversed, I could only make this a requirement if I were upholding this complaint and, further to our investigator's advice, I would encourage Mr M to discuss forbearance and repayment of his debt with NewDay.

So, I'm very sorry to disappoint Mr M, but for the above-mentioned reasons, I don't think NewDay acted unfairly or unreasonably here and I'm not upholding this complaint

My final decision

For the reasons mentioned above, my final decision is that I'm not upholding this complaint against NewDay Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 March 2026.

Paul Douglas
Ombudsman

